

## The complaint

Miss R complains that Revolut Ltd (“Revolut”) didn’t do enough to protect her when she fell victim to a scam.

## What happened

The details of this complaint are well known to both parties, so I won’t repeat them again here. Instead, I’ll summarise what happened and focus on giving the reasons for my decision.

Miss R came across an advert on social media for a cryptocurrency investment. She made an initial investment of just over £200 via a third-party account and was led to believe that her investment had grown substantially. So, in October 2022, Miss R made a payment of £9,800 to a cryptocurrency exchange.

Miss R made further payments after this through a third-party account. But when it intervened with a payment in December 2022, the scam was uncovered, and no further payments were made.

Revolut didn’t uphold Miss R’s complaint. It said the payments were authorised and it acted on best practices. So, she brought her complaint to our Service.

Our investigator upheld the complaint in part. He felt that Revolut should have intervened with the payment and, had it done so, that the scam would have been uncovered. But he also thought Miss R should bear some liability for the loss, as the alleged profits were too good to be true. So, he thought Revolut should refund 50% of the loss.

Miss R agreed but Revolut didn’t. As a result, the complaint was passed to me.

I issued a provisional decision in November 2024. In this, I said:

*In broad terms, the starting position at law is that an Electronic Money Institution (“EMI”) such as Revolut is expected to process payments and withdrawals that a customer authorises it to make, in accordance with the Payment Services Regulations (in this case the 2017 regulations) and the terms and conditions of the customer’s account.*

*And, as the Supreme Court has recently reiterated in Philipp v Barclays Bank UK PLC, subject to some limited exceptions banks have a contractual duty to make payments in compliance with the customer’s instructions.*

*In that case, the Supreme Court considered the nature and extent of the contractual duties owed by banks to their customers when making payments. Among other things, it said, in summary:*

- The starting position is that it is an implied term of any current account contract that, where a customer has authorised and instructed a bank to make a payment, it must carry out the instruction promptly. It is not for the*

*bank to concern itself with the wisdom or risk of its customer's payment decisions.*

- *At paragraph 114 of the judgment the court noted that express terms of the current account contract may modify or alter that position. In Philipp, the contract permitted Barclays not to follow its consumer's instructions where it reasonably believed the payment instruction was the result of APP fraud; but the court said having the right to decline to carry out an instruction was not the same as being under a legal duty to do so.*

*In this case, the terms of Revolut's contract with Miss R modified the starting position described in Philipp, by – among other things – expressly requiring Revolut to refuse or delay a payment “if legal or regulatory requirements prevent us from making the payment or mean that we need to carry out further checks” (section 20).*

*So Revolut was required by the terms of its contract to refuse payments in certain circumstances, including to comply with regulatory requirements such as the Financial Conduct Authority's Principle for Businesses 6, which required financial services firms to pay due regard to the interests of their customers and treat them fairly. I am satisfied that paying due regard to the interests of its customers and treating them fairly meant Revolut should have been on the look-out for the possibility of fraud and refused card payments in some circumstances to carry out further checks.*

*I must also take into account that the basis on which I am required to decide complaints is broader than the simple application of contractual terms and the regulatory requirements referenced in those contractual terms. I must determine the complaint by reference to what is, in my opinion, fair and reasonable in all the circumstances of the case (DISP 3.6.1R) taking into account the considerations set out at DISP 3.6.4R.*

*Whilst the relevant regulations and law (including the law of contract) are both things I must take into account in deciding this complaint, I'm also obliged to take into account regulator's guidance and standards, relevant codes of practice and, where appropriate, what I consider to have been good industry practice at the relevant time: see DISP 3.6.4R. So, in addition to taking into account the legal position created by Revolut's standard contractual terms, I also must have regard to these other matters in reaching my decision.*

*Looking at what is fair and reasonable on the basis set out at DISP 3.6.4R, I consider that Revolut should in October 2022 have been on the look-out for the possibility of fraud and have taken additional steps, or made additional checks, before processing payments in some circumstances.*

*In reaching the view that Revolut should have been on the look-out for the possibility of fraud and have taken additional steps, or made additional checks, before processing payments in some circumstances, I am mindful that in practice all banks and EMI's like Revolut did in fact seek to take those steps, often by:*

- *using algorithms to identify transactions presenting an increased risk of fraud;<sup>1</sup>*
- *requiring consumers to provide additional information about the purpose of transactions during the payment authorisation process;*

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<sup>1</sup> For example, Revolut's website explains it launched an automated anti-fraud system in August 2018: [https://www.revolut.com/news/revolut\\_unveils\\_new\\_fleet\\_of\\_machine\\_learning\\_technology\\_that\\_has\\_seen\\_a\\_fourfold\\_reduction\\_in\\_card\\_fraud\\_and\\_had\\_offers\\_from\\_banks/](https://www.revolut.com/news/revolut_unveils_new_fleet_of_machine_learning_technology_that_has_seen_a_fourfold_reduction_in_card_fraud_and_had_offers_from_banks/)

- *using the confirmation of payee system for authorised push payments;*
- *providing increasingly tailored and specific automated warnings, or in some circumstances human intervention, when an increased risk of fraud is identified.*

*I am also mindful that:*

- *Electronic Money Institutions like Revolut are required to conduct their business with “due skill, care and diligence” (FCA Principle for Businesses 2), “integrity” (FCA Principle for Businesses 1) and a firm “must take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems” (FCA Principle for Businesses 3)<sup>2</sup>.*
- *Over the years, the FCA, and its predecessor the FSA, have published a series of publications setting out non-exhaustive examples of good and poor practice found when reviewing measures taken by firms to counter financial crime, including various iterations of the “Financial crime: a guide for firms”.*
- *Regulated firms are required to comply with legal and regulatory anti-money laundering and countering the financing of terrorism requirements. Those requirements include maintaining proportionate and risk-sensitive policies and procedures to identify, assess and manage money laundering risk – for example through customer due-diligence measures and the ongoing monitoring of the business relationship (including through the scrutiny of transactions undertaken throughout the course of the relationship). I do not suggest that Revolut ought to have had concerns about money laundering or financing terrorism here, but I nevertheless consider these requirements to be relevant to the consideration of Revolut’s obligation to monitor its customer’s accounts and scrutinise transactions.*
- *The October 2017, BSI Code<sup>3</sup>, which a number of banks and trade associations were involved in the development of, recommended firms look to identify and help prevent transactions – particularly unusual or out of character transactions – that could involve fraud or be the result of a scam. Not all firms signed the BSI Code (and Revolut was not a signatory), but the standards and expectations it referred to represented a fair articulation of what was, in my opinion, already good industry practice in October 2017 particularly around fraud prevention, and it remains a starting point for what I consider to be the minimum standards of good industry practice now (regardless of the fact the BSI was withdrawn in 2022).*
- *Revolut should also have been aware of the increase in multi-stage fraud, particularly involving cryptocurrency when considering the scams that its customers might become victim to. Multi-stage fraud involves money passing through more than one account under the consumer’s control before being sent to a fraudster. Our service has seen a significant increase in this type of fraud over the past few years – particularly where the immediate destination of funds is a cryptocurrency wallet held in the consumer’s own name. And,*

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<sup>2</sup> Since 31 July 2023 under the FCA’s new Consumer Duty package of measures, banks and other regulated firms must act to deliver good outcomes for customers (Principle 12), but the circumstances of this complaint pre-date the Consumer Duty and so it does not apply.

<sup>3</sup> BSI: PAS 17271: 2017” Protecting customers from financial harm as result of fraud or financial abuse”

*increasingly, we have seen the use of an EMI (like Revolut) as an intermediate step between a high street bank account and cryptocurrency wallet.*

- The main card networks, Visa and Mastercard, don't allow for a delay between receipt of a payment instruction and its acceptance: the card issuer has to choose straight away whether to accept or refuse the payment. They also place certain restrictions on their card issuers' right to decline payment instructions. The essential effect of these restrictions is to prevent indiscriminate refusal of whole classes of transaction, such as by location. The network rules did not, however, prevent card issuers from declining particular payment instructions from a customer, based on a perceived risk of fraud that arose from that customer's pattern of usage. So it was open to Revolut to decline card payments where it suspected fraud.*

*Overall, taking into account relevant law, regulators rules and guidance, relevant codes of practice and what I consider to have been good industry practice at the time, I consider it fair and reasonable in October 2022 that Revolut should:*

- have been monitoring accounts and any payments made or received to counter various risks, including preventing fraud and scams;*
- have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which firms are generally more familiar with than the average customer;*
- in some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, or provided additional warnings, before processing a payment – (as in practice Revolut sometimes does); and*
- have been mindful of – among other things – common scam scenarios, how the fraudulent practices are evolving (including for example the common use of multi-stage fraud by scammers, including the use of payments to cryptocurrency accounts as a step to defraud consumers) and the different risks these can present to consumers, when deciding whether to intervene.*

*Whilst I am required to take into account the matters set out at DISP 3.6.4R when deciding what is fair and reasonable, I am satisfied that to comply with the regulatory requirements that were in place in October 2022, Revolut should in any event have taken these steps.*

*Should Revolut have recognised that consumer was at risk of financial harm from fraud?*

*I'm minded to say that Revolut should have recognised that Miss R was at risk of financial harm. I say this because Miss R had recently opened the account and had given the account purpose as 'spend and save daily'. But the first payment made was to a cryptocurrency firm and it was for a relatively substantial sum of £9,800, somewhat contradicting the purpose given for the account. But seemingly, Revolut didn't provide a warning.*

*What kind of warning should Revolut have provided?*

*I've thought carefully about what a proportionate warning in light of the risk presented would be in these circumstances. In doing so, I've taken into account that many payments that look very similar to this one will be entirely genuine. I've given due*

*consideration to Revolut's duty to make payments promptly, as well as what I consider to have been good industry practice at the time this payment was made.*

*Taking that into account, I think Revolut ought, when Miss R attempted to make the payment, knowing that the payment was going to a cryptocurrency provider, to have at least provided a warning (whether automated or in some other form) that was specifically about the risk of cryptocurrency scams. I say 'at least' as, given the arguable contradiction in the account purpose and the sum involved, there's an argument to say that the warning should have gone beyond a tailored written warning and potentially a human intervention should have taken place.*

*But, I'm going to proceed on the basis of a tailored written warning being the appropriate intervention for the purposes of this provisional decision as it leads me to the same overall outcome.*

*So, at this point in time, I think that a warning should have addressed the key risks and features of the most common cryptocurrency scams – cryptocurrency investment scams. The warning Revolut ought fairly and reasonably to have provided should have highlighted, in clear and understandable terms, the key features of common cryptocurrency investment scams, for example referring to: an advertisement of social media, promoted by a celebrity or public figure; an 'account manager', 'broker' or 'trader' acting on their behalf; the use of remote access software and a small initial deposit which quickly increases in value.*

*I recognise that a warning of that kind could not have covered off all scenarios. But I think it would have been a proportionate way for Revolut to minimise the risk of financial harm to Miss R by covering the key features of scams affecting many customers but not imposing a level of friction disproportionate to the risk the payment presented.*

*If Revolut had provided a warning of the type described, would that have prevented the loss Miss R suffered?*

*I've thought carefully about whether a specific warning covering off the key features of cryptocurrency investment scams would have likely prevented the loss in this case. And on the balance of probabilities, I think it would have. There were several key hallmarks of common cryptocurrency investment scams present in the circumstances of Miss R's payment, such as finding the investment through an advertisement on social media, being assisted by an agent, being asked to download remote access software so they could help with the transactions, and a small deposit which quickly increased in value.*

*I note that, later on, when a third-party business intervened, the scam was unravelled (in December 2022). Having listened to that intervention, I recognise it took relatively substantial probing from the business for the scam to be uncovered. But, by this time, Miss R had invested a significant sum – in the region of £50,000.*

*Had Revolut intervened with this particular payment, I'm inclined to say that Miss R wouldn't have been so invested – as she would have only lost around £200 by that point. The payment in dispute here was the first significant payment. Taking heed of a warning at the time of this payment wouldn't mean having to accept the loss of a huge sum of money. I think that if Revolut had provided the tailored warning it should have done, Miss R would likely have been receptive to it. And, given the number of common hallmarks, the scam would have unravelled.*

*Is it fair and reasonable for Revolut to be held responsible for consumer's loss?*

*In reaching my decision about what is fair and reasonable, I have taken into consideration that Miss R purchased cryptocurrency which credited an account held in her own name, rather than making a payment directly to the fraudsters. So, in theory, she would have remained in control of her money after she made the payment from her Revolut account, and there were further steps before the money was lost to the fraudsters.*

*I've carefully considered Revolut's view that in multi-stage fraud, a complaint should be properly considered only against the firm that is the 'point of loss' or the origin of the funds. And I've taken into account that the payment was made to another financial business – a cryptocurrency exchange – and that the payment that funded this disputed payment was made from other accounts at regulated businesses.*

*But as I've set out in some detail above, I think that Revolut still should have recognised that consumer might have been at risk of financial harm from fraud when they made the payment. And, in those circumstances it should have declined the payment and made further enquiries. If it had taken those steps, I am satisfied it would have prevented the losses consumer suffered. The fact that the money used to fund the scam came from elsewhere and/or wasn't lost at the point it was transferred to consumer's own account does not alter that fact and I think Revolut can fairly be held responsible for consumer's loss in such circumstances. I don't think there is any point of law or principle that says that a complaint should only be considered against either the firm that is the origin of the funds or the point of loss.*

*I've also considered that consumer has only complained against Revolut. I accept that it's possible that other firms might also have missed the opportunity to intervene or failed to act fairly and reasonably in some other way, and Miss R could instead, or in addition, have sought to complain against those firms. But Miss R has not chosen to do that and ultimately, I cannot compel her to. In those circumstances, I can only make an award against Revolut.*

*I'm also not persuaded it would be fair to reduce Miss R's compensation in circumstances where: the consumer has only complained about one respondent from which they are entitled to recover their losses in full; has not complained against the other firm (and so is unlikely to recover any amounts apportioned to that firm); and where it is appropriate to hold a business such as Revolut responsible (that could have prevented the loss and is responsible for failing to do so). That isn't, to my mind, wrong in law or irrational but reflects the facts of the case and my view of the fair and reasonable position.*

*Ultimately, I must consider the complaint that has been referred to me (not those which haven't been or couldn't be referred to me) and for the reasons I have set out above, I am satisfied that it would be fair to hold Revolut responsible for Miss R's loss (subject to a deduction for consumer's own contribution which I will consider below).*

*Should Miss R bear any responsibility for their losses?*

*I've thought about whether Miss R should bear any responsibility for her loss. In doing so, I've considered what the law says about contributory negligence, as well as what I consider to be fair and reasonable in all of the circumstances of this complaint, including taking into account Miss R's own actions and responsibility for the loss she has suffered.*

*Having done so, while I recognise there were relatively sophisticated aspects to this scam, I consider the profits Miss R was said to have made on such a small initial investment were simply too good to be true. I'd also add that genuine investments aren't commonly advertised on social media, and there was a warning on the Financial Conduct Authority register for the company she thought she was investing with – suggesting she didn't carry out due diligence before making payments. Because of this, I consider that Miss R should bear some responsibility for the loss.*

*Balancing Miss R's role in this with the fact that Revolut failed to intervene, I think 50% is a fair deduction to the amount reimbursed.*

Miss R accepted the provisional decision. But Revolut didn't respond. So, I'm now in a position to issue my final decision.

### **What I've decided – and why**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

As neither party has provided any further information for consideration, I see no reason to depart from my provisional findings.

### **Putting things right**

Revolut Ltd should:

- Refund 50% of the payment made, less anything already recovered;
- Add 8% simple interest per annum to this amount from the date of loss to the date of settlement.

### **My final decision**

For the reasons given above, I uphold this complaint in part. I direct Revolut Ltd to put things right as set out above within 28 days of acceptance of this decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss R to accept or reject my decision before 31 December 2024.

Melanie Roberts  
**Ombudsman**